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January 25, 2018

**VIA ECF**

Honorable Paul G. Gardephe  
United States District Judge  
United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: **Maryam Khansari, et al v. St. Barnabas Hospital**  
**Case No.: 15-cv-01803 (PGG) (HBP)**

This firm represents Defendant in the referenced matter. We write to respectfully request that the Court strike Plaintiffs' Cross Motion *In Limine* to Preclude Testimony and Evidence from Christopher Erath dated January 23, 2018. As detailed below that motion is untimely and Defendant should not be required to respond given that its response would be due after the start of the trial in this matter.

Defendant first disclosed Christopher Erath on November 22, 2017 in its Supplemental Fed. R. Civ. P. Rule 26(a)(1) Disclosures. Defendant stated that Erath would provide "knowledge regarding the calculation of the number of hours that each of the Plaintiffs worked each day from the time each Plaintiff either clocked in or started using EMR (whichever occurred earlier) until such time as the same Plaintiff clocked out or last used EMR (whichever occurred later), calculated on weekly basis using EMR reports and Time Detail reports of Plaintiffs."

On December 7, Defendant provided Plaintiffs with the documents Erath relied upon, and generated and which he would use during his testimony. On December 18, Plaintiffs deposed Erath.

Plaintiffs never sought to strike Erath as a witness or otherwise move to preclude his testimony. Instead, over a month after he was deposed, Plaintiffs first raised these issues in their cross-motion *in limine* and then only in response to Defendant's motion *in limine* to strike the testimony of Plaintiffs' witness Mr. Agogliati. Having served their motion on January 23, Defendant's opposition is not due until February 6, after the start of trial. This is inappropriate and unfair. Had Plaintiffs desired to move to strike his testimony, they should and could have done so much sooner.

Honorable Paul G. Gardephe

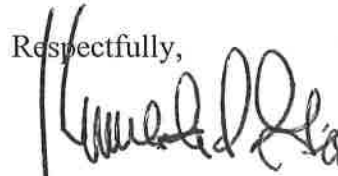
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Defendant respectfully requests that the Court strike Plaintiffs' cross-motion and that Defendant not be required to respond to this motion.

Thank you for your attention.

Respectfully,

A handwritten signature in black ink, appearing to read "Kenneth W. DiGia", written over the word "Respectfully,".

Kenneth W. DiGia

KWD/kpa

cc via ECF: Frank R. Schirripa, Esq.  
Michael A. Rose, Esq.  
Daniel Rehns, Esq.  
John A. Blyth, Esq.  
(Attorneys for Plaintiffs)